"Lies to the Sick and Dying"

Sissela Bok

Bok's Conclusion

Lying or withholding is okay but only when certain conditions have been met.

Observations

Non-malfeasance has historically taken priority over truth telling.

Veracity is rarely referred to as a medical virtue (not a part of Hippocratic Oath)

Argues that insufficient stress has been placed on truth telling in medicine.

Why doctors do not choose to tell the truth to patients:

1. **Patients might be medicated and therefore cannot receive the truth.**
2. **There is an informational asymmetry between doctors and patients; it is difficult for doctors to communicate the truth to the patients.**
3. **Doctors project their own unwillingness to hear the truth onto the patients and assume that the patients' desires would be the same as the doctors'.**
4. **Doctors think that telling the truth will generate "self-fulfilling prophecies" and therefore it should be avoided.**
5. **Communicating bad news can be unpleasant.**
6. **Doctors think that telling the truth might cause patients to refuse treatments that are not likely to dramatically improve their prognoses.**

What are needed are *justifications*

Why are doctors not morally obligated to tell the truth to their patients?

Three common arguments in favor of lying and/or withholding the truth

1. Truthfulness is impossible.

A popular principle in moral philosophy is that we can only be morally obligated to do things that are possible so, if something is impossible, we cannot be required to do it.

There are several different ways in which it could be impossible to tell the truth to patients.

- The patient might be unconscious or on medication such that he is unable to communicate or process information.
- More controversially, there exists this informational asymmetry between doctors and patients and doctors that doctors cannot bridge.

Three common arguments in favor of lying and/or withholding the truth

2. Patients do not want bad news.

- If patients actually did not want to hear bad news then, out of respect for their autonomy, we should not give it to them.

3. Truth harms the patient.

- Meyer's argument: "therapeutic privilege"

Bok's Evaluation of the First argument:

The first argument (truthfulness is impossible) rests on a failure to understand the difference between truth and truthfulness.

In some cases, it might be impossible to give the full truth, but it is nevertheless possible (and advisable) to be truthful.

It is not really clear how someone could be truthful *about* something other than the truth.

But even if we cannot give the *exact* truth (e.g., you will die on 5/28 at 9:57 a.m.), we can be truthful insofar as we communicate to the patient that he has *about* 3 months to live.

Thoughts on Bok's evaluation of the First argument

Bok would perhaps be better off were she to argue that exact truths might be impossible, but this does not mean that doctors do not have to do their best to communicate their best guesses.

Note that even this argument can only extend to *some* of the cases wherein truth was allegedly impossible (e.g., informational asymmetry) but the rest of the cases (e.g., unconscious patient) would not be affected.

Bok's Eval of Argument Two

2nd Argument: Patients do not want bad news.

As a matter of empirical fact, patients actually do want to hear the truth about their condition.

If this is true, then we obviously cannot justify withholding or lying on the grounds that patients prefer it, since they do not. She cites studies wherein upwards of 80% of patients say that they do want to hear the truth.

Thoughts about Bok's Evaluation of the 2nd argument

But, even if this were true, what should we take away from the study?

It is quite possible that patients are not entirely honest with their responses:

- They might well perceive more dignity in the response that represents a willingness to accept the truth about their condition.
- Bok seems to recognize that the empirical evidence is not necessarily as strong as it looks, and that further work needs to be done.

At a minimum, we can probably agree with her and grant that the idea that "patients do not want to hear the truth about their condition" is not as established as some might hope.

Bok's Evaluation of the 3rd Argument

3. Truth harms the patient.

- Bok is willing to grant that, in some cases, the truth actually could harm the patient (though she thinks that claims to this effect are often exaggerated).
- However, even if this is true, disclosure would only be *prima facie* wrong
- It's possible that this *prima facie* wrongness of disclosure could be outweighed by other benefits that disclosure would bring.
- Bok thinks that such benefits do exist, and that they have received insufficient attention.

More on Argument Three

Benefits of disclosure:

1. Patient is able to see life as a narrative and to write the concluding chapter as s/he sees fit. Having the ending catch her/him unaware would deprive him of this opportunity.
2. Patient is able to decide whether she wants to be a patient anymore or not. If the prognosis is bleak, she may opt for euthanasia. Even if she does not choose euthanasia, she might want to choose to leave the hospital and return home.
3. Disclosure offers the patient the respect of a rational, autonomous agent. Failure to do so would deny the patient this respect and fail to appreciate his autonomy.
4. Patient is able to make create and/or edit his will and to give other directions for after his death.
5. Patient is able to say goodbye to loved ones and reconcile with estranged friends and family members.
6. Patient is able to carry out perceived duties before death (e.g., Catholic Last Rites).
7. Failure to disclose detracts from the solemnity of the act of dying.
8. Failure to disclose increases distrust of the medical profession.

Bok allows withholding and/or lying if:

1. The burden of justification is placed on the doctors. They are responsible for determining that reasons 1-8 above (especially 2,4,5,6) are sufficiently insignificant or are outweighed by invocation of therapeutic privilege.
2. The decision not to disclose is made collectively. Bok wants more than one doctor to help make the decision in the hopes that this is more likely to eradicate individual biases and get the answer right more often.
3. There must be a close relationship between the doctor(s) and the patient. This certainly seems necessary to be able to determine the relative significance of the above conditions (especially 2,4,5,6).

Announcements

Reading this week:

- **Norman Daniels, *Just Health Care and the Right to Health Care*, pgs., 211-217**
- **Robert Veatch, *Justice, the Basic Social Contract, and Health Care*, Pgs. 219-224**
- **Allen Buchanan, *The Right to a Decent Minimum of Health Care,* pgs. 225-230**